

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 5:09CR27-03
(STAMP)

TANEQUA SMITH,

Defendant.

ORDER OF THE COURT AFFIRMING MAGISTRATE JUDGE
ORDER DENYING MOTION FOR BILL OF PARTICULARS

On August 6, 2009, the defendant, Tanequa Smith, filed a motion for a bill of particulars. The defendant argues that a bill of particulars is needed to prepare an adequate defense and avoid surprise at trial.

Thereafter, on August 26, 2009, Magistrate Judge James E. Seibert entered an order denying the motion for a bill of particulars. The magistrate judge denied the motion, referencing the Government's open file policy. Based on this disclosure, Judge Seibert found the defendant has full and complete information to prepare for trial and avoid surprise and double jeopardy. The plaintiff has filed no objections to the order. The defendant Smith stated by her counsel at a pre-trial conference on August 31, 2009 that she did not intend to file any objection to Magistrate Judge Seibert's order.

This Court finds that the magistrate judge's order was not clearly erroneous. Therefore, the ruling of the magistrate judge

is hereby AFFIRMED and ADOPTED in its entirety and the motion is DENIED.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to the defendant, to counsel of record herein, to the United States Probation Office and to the United States Marshals Service.

DATED: August 31, 2009

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE